

**LEECH TISHMAN ROBINSON BROG, PLLC**

875 Third Avenue, 9<sup>th</sup> Floor

New York, New York 10022

Tel. No.: (212) 603-6300

**Fred B. Ringel, Esq.**

**Steven B. Eichel, Esq.**

*Attorneys for 960 Franklin LLC and Daryl Hagler*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 11

Case No. 22-42760-jmm

**960 FRANKLIN OWNER LLC,**

Debtor.

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**DECLARATION OF ANTHONY CARONE IN SUPPORT OF  
MOTION OF 960 FRANKLIN LLC AND DARYL HAGLER FOR ENTRY  
OF AN ORDER (I) DISMISSING CHAPTER 11 CASE, OR, IN THE  
ALTERNATIVE, (II) EITHER (A) DETERMINING THAT THE  
AUTOMATIC STAY DOES NOT APPLY TO AGREEMENT OF  
SALE OF MEMBERSHIP INTERESTS OR (B) VACATING STAY WITH  
RESPECT TO AGREEMENT OF SALE OF MEMBERSHIP INTERESTS**

I, Anthony Carone, pursuant to 28 U.S.C. §1746, declares under penalty of perjury:

1. I am a partner with the law firm of Abrams Festerman LLP and counsel to Daryl Hagler ("Hagler") and 960 Franklin LLC ("Franklin"). I have personal knowledge of the events set forth here and thus I am fully familiar with the facts and circumstances of this case.

2. I submit this declaration in support of the motion for entry of an order (I) dismissing the above-captioned Chapter 11 case of 960 Franklin Owner LLC ("Debtor") pursuant to 11 U.S.C. §1112(b), or in the alternative (II) either (A)

determining that the automatic stay provisions of 11 U.S.C. §362 do not apply to the Agreement of Sale of Membership Interests (“Agreement”) between Hagler and the Debtor, or (B) vacating the automatic stay as to Hagler to permit him to, *among other things*, terminate the Agreement.

3. On August 10, 2022, Hagler, as assignor (“Assignor”), and the Debtor, as assignee (“Assignee”), executed the Agreement under which Assignee was to acquire from Assignor all of its right, title and interest of Assignor in and to the Membership Interests in 960 Franklin on the terms set forth in the Agreement. The parties also entered into an Assignment and Assumption of Membership Interest Agreement (“51% Assignment Agreement”), pursuant to which Hagler (as Assignor), who owns 100% of the Membership Interests in 960 Franklin, agreed to convey to the Debtor, as Assignee, 51% of the Membership Interests in 960 Franklin. As set forth in Section 3(B) of the Agreement below, the 51% Assignment Agreement is subject to Section 3(B), as amended by emails between counsel for Assignor and Assignee, analyzed in paragraph 8 below, which changed the time for payment of the \$10 million payment required by the Agreement from November 1, 2022, to a time of the essence (“TOE”) payment deadline of 11:00 a.m. on November 2, 2022. The \$10 million dollar payment was not made by the TOE deadline of 11:00 a.m., and in fact has never been made, and as a result. The membership interests previously transferred to the Debtor automatically reverted to Hagler without any further action on his part.

4. Sections 3(B) and 8 of the Agreement, as amended by the emails identified in section 8 of the Affidavit, are the relevant provisions setting forth the deadlines by which the Assignee was required to make a \$10 million payment to Escrowee and close on its purchase of the Membership Interests.

5. Section 3 of this Agreement provides as follows:

(A) Effective as of the Effective Date<sup>1</sup>, Assignor has assigned and transferred to Assignee all his right, title and interest in and to 51% of the Membership Interests in the Company as evidenced by the assignment of membership interests dated on or about the Effective Date and annexed hereto as Exhibit B (the “51% Assignment of Membership Interests”), with Assignor representing that such assignment and transfer shall be lien free and free and clear of any debts, liens, liabilities, obligations and rights of any third parties (and a “clean” UCC and lien search shall be delivered by Assignor to Assignee on the Effective Date or Closing (at Assignee’s option) showing no encumbrances on the Membership Interests so assigned), and at the Assignee’s option, Assignor shall at Closing execute such title and other affidavits (including, without limitation, a “non-imputation affidavit” and such other documents as may be reasonably requested by the Assignee’s designated title insurance company in order to insure the transfer of the Membership Interests to Assignee or its designee) and other reasonable documentation as Assignee shall reasonably request to confirm the foregoing, such covenants, representations and warranties to survive the closing of the payment of the Purchase Price with respect to the Membership Interests only.

(B) Effective as of the Closing, Assignor hereby agrees to assign and transfer to Assignee all his right, title and interest in and to 49% of the Membership Interests in the Company as evidenced by the assignment of Membership Interests dated on or about the Closing and annexed hereto as Exhibit C (the “49% Assignment of Membership Interests”), with Assignor representing that such assignment and transfer shall be lien free and free and clear of any debts, liens, liabilities, obligations and rights of any third parties (and a “clean” UCC and lien search shall be delivered by Assignor to Assignee at the Closing showing no encumbrances on the Membership Interests so assigned), and at the Assignee’s option, Assignor shall at Closing execute such title and other affidavits (including, without limitation, a “non-imputation affidavit” and such other documents as may be reasonably requested by the Assignee’s designated title insurance company in order to insure the transfer of the Membership Interests to Assignee or its designee) and other reasonable documentation as Assignee shall reasonably request to confirm the foregoing, such representations and warranties to survive the closing of the payment of the Purchase Price with respect to the Membership Interests only. Both the 51% Assignment of Membership Interests and the 49% Assignment of Membership Interests are fully executed on the Effective Date, with the 51% Assignment of Membership Interests to be dated the Effective Date, and the 49% Assignment of Membership Interests to be dated and effective the date of the Closing and Assignee shall insert such date thereon at Closing. If required by Underlying Sellers, Assignor and Assignee shall execute

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<sup>1</sup>Capitalized terms not defined herein shall have the meaning ascribed to them in the Agreement.

an Operating Agreement (“Operating Agreement”) of the Company in commercially reasonable form dated on or about the Effective Date and conforming to the terms and conditions of this Assignment Agreement. If the closing of title to Purchaser fails to occur at the Closing as a result of Assignee’s default in the performance of its obligations under this Assignment Agreement, and provided Underlying Sellers are not in default of the Contracts, and further provided Assignor is not in default of this Agreement, then Assignor may at its sole option elect to rescind (“Reversionary Right”) the 51% Assignment of Membership Interests and the 49% Assignment of Membership and retain the Down Payment (as hereinafter defined) as liquidated damages. **Notwithstanding anything to the contrary set forth in this Assignment Agreement, and as a material inducement for Assignor to enter into this Agreement, Assignee shall wire \$10,000,000.00 to Escrowee on or before November 1, 2022 to be held in escrow and applied toward the balance of the Purchase Price at Closing. In the event Assignee fails or refuses to wire such additional \$10,000,000.00 to Escrowee<sup>2</sup> on or before November 1, 2022, Assignee shall be deemed to have defaulted, Assignor’s Reversionary Right shall be deemed exercised, Assignee shall have no further right in the Membership Interests, any prior assignment of the Membership Interests shall be deemed null and void, Assignor shall be entitled to return the Down Payment as liquidated damages and Assignor shall be permitted to close with the Underlying Sellers.** (Emphasis added)

6. Section 3(B) of the Agreement is self-executing, with the reversionary right deemed exercised upon the Assignee’s failure to tender the \$10 million payment to Escrowee. No affirmative action by any party is needed to affect the reversion.

7. Section 8 of the Agreement provides as follows:

The Closing shall be held on November 2, 2022, which is the same day that the closing is held with the Underlying Sellers pursuant to the Contracts, provided, however, if Underlying Sellers grant extensions under the Contracts at the request and with the permission of Assignee, the obligations of Assignee shall likewise be extended. **TIME IS OF THE ESSENCE AS TO ASSIGNEE’S OBLIGATION TO CLOSE UNDER THE CONTRACTS AND THIS ASSIGNMENT AGREEMENT.**

8. On November 1, 2022 at 4:27 p.m., David Feit counsel to Assignee, emailed me that he was “advised the deadline to wire the \$10 million has been extended to

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<sup>2</sup>Under the Agreement, the Escrowee is Abrams Festerman LLP. See Agreement at §9.

11:00 a.m. on November 2. Please confirm the contract is thereby amended and send me an email and contract amendment to that effect.” A copy of this email and all the emails mentioned below are part of an email chain attached as Exhibit A (except as otherwise indicated).

9. In response to another email by David Feit on November 1, 2022 at 4:36 pm. requesting confirmation that his email is binding on both the assignor and assignee without any need for a written assignment agreement executed by the assignor and assignee, I responded by email at 4:37 p.m.:

I can confirm that my client authorized the extension of time until tomorrow at 11:00 a.m. TOE for receipt of the wire and no written amendment is needed.

10. By these emails, the TOE deadline for the payment of the \$10 million, which was required to close on the sale of the Membership Interests, became November 2, 2022 at 11:00 a.m. TOE deadline The Assignee neither paid the \$10 million before the 11:00 a.m. TOE deadline n or at any time after that.

11. On November 2, 2022, Eli Lefkowitz, Assignee’s other counsel, sent an email at 2:17 p.m., more than three hours after the TOE deadline expired, which email provided, in pertinent part, as follows:

All – I have just been advised that this is not closing today. I don’t have a further update at this time.

A copy of this email is attached as Exhibit B.

12. Not only did the Assignee fail to pay \$10 million by 11:00 a.m. on November 2, 2022, Mr. Lefkowitz’s email confirmed that Assignee breached the Agreement.

13. At 3:44 p.m. on the same day, I sent the following email to Mr. David Feit:

David – as you know, today is a TOE closing date. The wire for the 10 mil additional deposit has never been received, and the balance of the purchase price has never been received. As a result of these defaults and pursuant to paragraph 3(B) of the agreement of sale of membership interests, the revisionary [sic] right has been deemed exercised, Assignee has no further right in the Membership Interests, the prior assignment of the membership interests is null and void and Assignor is permitted to close with the underlying Sellers. This letter is without prejudice to, and my client reserves all rights and remedies.

14. On the same day, I sent a similar letter to Mr. Feit confirming that Assignee failed to send the \$10 million. The letter provides, in pertinent part, as follows:

The wire for the Ten Million Dollar (\$10,000,000.00) additional deposit has never been received, and the balance of the purchase price has never been received.

As a result of these defaults, and pursuant to paragraph 3(B) of the agreement of sale of membership interests, the revisionary [sic] right by Assignor has been deemed exercised, Assignee has no further right in the Membership Interests, the prior assignments of the membership interests are null and void, and Assignor is permitted to close with the underlying Sellers.

The complete November 2, 2022 letter is attached as Exhibit C.

15. Hagler advised me that he was prepared to close the following morning, November 2, 2022 at 11:00 a.m., however, the Debtor failed to tender the \$10 million payment and close on the Agreement as required.

16. At approximately 4:28 p.m. on November 2, 2022 (“Petition Date”), the Debtor commenced its Chapter 11 case. A copy of the Notice of Bankruptcy Case Filing is annexed hereto as Exhibit D. Thus, the Debtor's chapter 11 case was started after the expiration of the TOE deadline.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing  
is true and correct to the best of my knowledge and belief.

**Dated:** New York, New York  
November 23, 2022

---

**ANTHONY CARONE**

# **EXHIBIT A**



**From:** Anthony J. Carone  
**Sent:** Wednesday, November 2, 2022 4:44 PM  
**To:** 'David J. Feit' <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Cc:** [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Alan Kulatti <[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>; cheskie weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>; Jennifer Cook <[JCook@ramtitle.com](mailto:JCook@ramtitle.com)>; Danielle Hayes <[DHayes@ramtitle.com](mailto:DHayes@ramtitle.com)>  
**Subject:** RE: 1031 Assignment Document

David – rather than that you and I engaging in a letter writing campaign where we resend the same emails, I defer to my previous responses.

This email is sent without prejudice to, and my client reserves all rights and remedies.

---

**From:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Sent:** Wednesday, November 2, 2022 4:35 PM  
**To:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>  
**Cc:** [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Alan Kulatti <[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>; cheskie weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>; Jennifer Cook <[JCook@ramtitle.com](mailto:JCook@ramtitle.com)>; Danielle Hayes <[DHayes@ramtitle.com](mailto:DHayes@ramtitle.com)>  
**Subject:** Re: 1031 Assignment Document

**Caution: This email originated outside of the organization**

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Dear Anthony,

I am advising you that the day is not over and my client has directed me to advise you that if any closing takes place on 960 Franklin without my client's express written authority, my client will hold your client accountable and file any and all claims with all appropriate title companies and courts of law.

This email is sent without prejudice to, and my client reserves all rights and remedies.

Please be guided accordingly.

Thank you.

David J. Feit, Esq.  
Law Offices of David J. Feit, Esq., PLLC  
[22 Cortlandt Street, Suite 803](#)  
[New York, New York 10007](#)  
Telephone: (212) 608-1445 ext. 1  
Telecopier: (212) 608-1803  
E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)  
Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)

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On Nov 2, 2022, at 3:44 PM, Anthony J. Carone <[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)> wrote:

David – As you, know, today is a TOE closing date. The wire for the 10mil additional deposit has never been received, and the balance of the purchase price has never been received. As a result of these defaults, and pursuant to paragraph 3(B) of the agreement of sale of membership interests, the revisionary right has been deemed exercised, Assignee has no further right in the Membership Interests, the prior assignment of the membership interests is null and void and Assignor is permitted to close with the underlying Sellers. This letter is without prejudice to, and my clients reserves all rights and remedies.

**Anthony J. Carone, Esq.** | Partner

**Brooklyn Office**

1 Metrotech Center  
Suite 1701

Brooklyn, New York 11201

718-215-5300 x 647 | Phone

718-215-7563 | Direct

718-215-7566 | Fax

[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)

[www.abramslaw.com](http://www.abramslaw.com)

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[!\[\]\(870f5d5e9c0d57485634be3ecf52f3ca\_img.jpg\)](#) [!\[\]\(66b14d8ba452f6f18b47935355b6120a\_img.jpg\)](#) [!\[\]\(bcb9bfd69e5b89da3d817cb72bfcfd1e\_img.jpg\)](#) [!\[\]\(0eb6abbd70294475dc7cb6513507500d\_img.jpg\)](#)

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---

**From:** Anthony J. Carone

**Sent:** Tuesday, November 1, 2022 4:37 PM

**To:** 'David J. Feit' <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>

**Cc:** [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Alan Kulatti  
<[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>

**Subject:** RE: 1031 Assignment Document

I can confirm that my client authorized the extension of time until tomorrow at 11am TOE for receipt of the wire and no written amendment is needed

---

**From:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>

**Sent:** Tuesday, November 1, 2022 4:36 PM

**To:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>

**Cc:** [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Alan Kulatti  
<[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>

**Subject:** Re: 1031 Assignment Document

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Anthony

Please Email me to confirm below is binding on assignor and assignee without any need for a written assignment agreement amendment executed by the assignor and assignee

David J. Feit, Esq.  
Law Offices of David J. Feit, Esq., PLLC  
[22 Cortlandt Street, Suite 803](#)  
[New York, New York 10007](#)  
Telephone: (212) 608-1445 ext. 1  
Telecopier: (212) 608-1803  
E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)  
Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)

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On Nov 1, 2022, at 4:32 PM, Anthony J. Carone <[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)> wrote:

Confirmed

**Anthony J. Carone, Esq.** | Partner

**Brooklyn Office**

1 Metrotech Center  
Suite 1701

Brooklyn, New York 11201

718-215-5300 x 647 | Phone

718-215-7563 | Direct

718-215-7566 | Fax

[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)

[www.abramslaw.com](http://www.abramslaw.com)

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<[imageeec548.PNG](#)> <[image32f87b.PNG](#)> <[imagee50bdf.PNG](#)> <[image1e2f61.PNG](#)>

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---

**From:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>

**Sent:** Tuesday, November 1, 2022 4:27 PM

**To:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>

**Cc:** [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Alan Kulatti <[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>

**Subject:** Re: 1031 Assignment Document

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I am advised the deadline to wire the 10m has been extended to 11 am November 2

Please confirm the contract is thereby amended and send me an email and contract amendment to that effect

David J. Feit, Esq.  
Law Offices of David J. Feit, Esq., PLLC  
[22 Cortlandt Street, Suite 803](#)  
[New York, New York 10007](#)  
Telephone: (212) 608-1445 ext. 1  
Telecopier: (212) 608-1803  
E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)  
Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)

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On Nov 1, 2022, at 4:13 PM, Anthony J. Carone  
<[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)> wrote:

Attached are the following to be held in escrow pending confirmation of receipt of the additional wire, confirmation of the actual closing, and email confirmation from me:

1. Assignment
2. FIRPTA
3. General Release

**Anthony J. Carone, Esq.** | Partner

**Brooklyn Office**

1 Metrotech Center

Suite 1100

Brooklyn, New York 11201

718-215-5300 x 647 | Phone

718-215-7563 | Direct

718-215-7566 | Fax

[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)

[www.abramslaw.com](http://www.abramslaw.com)

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**From:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>

**Sent:** Tuesday, November 1, 2022 1:40 PM

**To:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>

**Cc:** Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>; [sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>

**Subject:** Re: 1031 Assignment Document

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Add send

David J. Feit, Esq.  
Law Offices of David J. Feit, Esq., PLLC  
[22 Cortlandt Street, Suite 803](#)  
[New York, New York 10007](#)  
Telephone: (212) 608-1445 ext. 1  
Telecopier: (212) 608-1803  
E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)  
Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)

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On Nov 1, 2022, at 1:13 PM, Anthony J. Carone <[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)> wrote:

sure

**Anthony J. Carone, Esq.** | Partner

**Brooklyn**

1 Metro

<[imagee27303.PNG](#)>

Brooklyn, New

718-215-5300 x 6

718-215-7

718-215-75

[ACarone@AbramsLaw.com](mailto:ACarone@AbramsLaw.com)

[www.abramslaw.com](http://www.abramslaw.com)

<[imagecae1de.PNG](#)> <[image29d130.PNG](#)> <[image270dca.PNG](#)> <[image42e](#)>

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---

**From:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Sent:** Tuesday, November 1, 2022 12:54 PM  
**To:** Anthony J. Carone <[ACarone@AbramsLaw.com](mailto:ACarone@AbramsLaw.com)>  
**Cc:** Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>;  
[sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone  
<[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>  
**Subject:** RE: 1031 Assignment Document

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Pdf clause in release?

**David J. Feit, Esq.**  
**Law Offices of David J. Feit, Esq., PLLC**  
**22 Cortlandt Street, Suite 803**  
**New York, New York 10007**  
**Telephone: (212) 608-1445 ext. 1**  
**Telecopier: (212) 608-1803**  
**E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)**  
**Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)**

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---

**From:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>  
**Sent:** Tuesday, November 01, 2022 12:42 PM  
**To:** David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Cc:** Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>;  
[sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone



<[AAntigone@dfeitlelaw.com](mailto:AAntigone@dfeitlelaw.com)>

**Subject:** RE: 1031 Assignment Document

Here you go

***Anthony J. Carone, Esq.*** | ***Partner***

***Brooklyn Office***

1 Metrotech Center

Suite 1701

Brooklyn, New York 11201

718-215-5300 x 647 | Phone

718-215-7563 | Direct

718-215-7566 | Fax

[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)

[www.abramslaw.com](http://www.abramslaw.com)

<image001.png>

<image002.png> <image003.png> <image004.png> <image005.png>

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AF/02

---

**From:** David J. Feit <[dfeit@dfeitlelaw.com](mailto:dfeit@dfeitlelaw.com)>

**Sent:** Tuesday, November 1, 2022 12:39 PM

**To:** Anthony J. Carone <[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>

**Cc:** Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>;

[sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone

<[AAntigone@dfeitlelaw.com](mailto:AAntigone@dfeitlelaw.com)>

**Subject:** Re: 1031 Assignment Document

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---

Add firpta for 51% too

Add counterparts and pdf signature clause for both  
firpta and release too

David J. Feit, Esq.

Law Offices of David J. Feit, Esq., PLLC

[22 Cortlandt Street, Suite 803](#)

[New York, New York 10007](#)

Telephone: (212) 608-1445 ext. 1

Telecopier: (212) 608-1803

E-mail: [dfeit@dfeitlelaw.com](mailto:dfeit@dfeitlelaw.com)

Website: [www.dfeitlelaw.com](http://www.dfeitlelaw.com)

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On Nov 1, 2022, at 12:35 PM, Anthony J. Carone <[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)> wrote:

Hi – please review the attached and let me if you have any comments so I can get them signed

**Anthony J. Carone, Esq.** | **Partner**

Brooklyn

718-215-53

718-

718-

ACarone

ww

[<image9f7ce5.PNG>](#)

[<imagec08ae6.PNG>](#) [<imagefa2160.PNG>](#) [<image952908.PNG>](#) [<im](#)

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---

**From:** David J. Feit  
<[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Sent:** Tuesday, November 1, 2022 9:45 AM  
**To:** Anthony J. Carone  
<[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>; Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>;  
[sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone  
<[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>  
**Subject:** RE: 1031 Assignment Document

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---

[Ariann – add to folder](#)

**David J. Feit, Esq.**  
**Law Offices of David J. Feit, Esq., PLLC**  
**22 Cortlandt Street, Suite 803**  
**New York, New York 10007**  
**Telephone: (212) 608-1445 ext. 1**  
**Telecopier: (212) 608-1803**  
**E-mail: [dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)**  
**Website: [www.dfeitlegal.com](http://www.dfeitlegal.com)**

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---

**From:** Anthony J. Carone  
<[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>  
**Sent:** Tuesday, November 01, 2022 9:40 AM  
**To:** Cheskie Weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>;  
[sw@cwrealty.net](mailto:sw@cwrealty.net); Arianna Antigone  
<[AAntigone@dfaitlaw.com](mailto:AAntigone@dfaitlaw.com)>; David J.  
Feit <[dfait@dfaitlaw.com](mailto:dfait@dfaitlaw.com)>  
**Subject:** FW: 1031 Assignment  
Document  
**Importance:** High

Please add this to your list of documents to get signed. Seller needs this for his 1031

**Anthony J. Carone, Esq.** | Partner

**Brooklyn**

1 Metrotech

Suit

Brooklyn, New York

718-215-5300 x 647

718-215-7563

718-215-7566

ACarone@Abramsl

www.abramsl

<image001.png>

<image002.png> <image003.png> <image004.png> <image005.png>

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---

**From:** Jason L. Sobel  
<[jsobel@sillscummis.com](mailto:jsobel@sillscummis.com)>  
**Sent:** Monday, October 31, 2022 7:10 PM  
**To:** Anthony J. Carone  
<[ACarone@Abramslaw.com](mailto:ACarone@Abramslaw.com)>  
**Cc:** Fred DiTommaso  
<[fditommaso@sillscummis.com](mailto:fditommaso@sillscummis.com)>; Saudi G. Crawford  
<[scrawford@sillscummis.com](mailto:scrawford@sillscummis.com)>  
**Subject:** 1031 Assignment Document  
**Importance:** High

**Caution: This email originated outside of the organization**

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Anthony – can you please have Buyer sign the attached Assignment for Seller’s 1031 transaction? This can be done via scan and email, so please get back to us ASAP.

Fred – please add this to our closing document list for tomorrow.

Thanks,  
Jason

**Jason L. Sobel**  
Member - Real Estate

<image006.gif>

<image007.gif>  
<image008.gif>  
**website | vCard | newsroom | email** <image009.gif>

One Riverfront Plaza, Newark, NJ 07102  
p (973) 643-5295 | f (973) 643-6500 [map](#)

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This email message has been scanned for viruses by Mimecast.

<FIRPTA.DOCX>  
<GENERAL RELEASE.docx>

<Hagler Closing docs.pdf>

## **EXHIBIT B**

**From:** Eli Lefkowitz <[eli@mlwitz.com](mailto:eli@mlwitz.com)>  
**Sent:** Wednesday, November 2, 2022 2:17:43 PM  
**To:** Jennifer Cook <[JCook@ramtitle.com](mailto:JCook@ramtitle.com)>; David J. Feit <[dfeit@dfeitlegal.com](mailto:dfeit@dfeitlegal.com)>  
**Cc:** Jeffrey Zwick <[jeffrey@jzlegal.com](mailto:jeffrey@jzlegal.com)>; Anthony J. Carone <[ACarone@abramslaw.com](mailto:ACarone@abramslaw.com)>; Allen Weinstein <[AWeinstein@centersbusiness.org](mailto:AWeinstein@centersbusiness.org)>; Hillel Lazarus <[hillel@jzlegal.com](mailto:hillel@jzlegal.com)>; Shia Weisz <[sw@cwrealty.net](mailto:sw@cwrealty.net)>; Shimmy Meisels <[smeisels@jzlegal.com](mailto:smeisels@jzlegal.com)>; Alan Kulatti <[akulatti@dfeitlegal.com](mailto:akulatti@dfeitlegal.com)>; Arianna Antigone <[AAntigone@dfeitlegal.com](mailto:AAntigone@dfeitlegal.com)>; Isaac Hager <[Isaac@cornellrealty.com](mailto:Isaac@cornellrealty.com)>; Joel Teitelbaum <[joel11205@gmail.com](mailto:joel11205@gmail.com)>; cheskie weisz <[cw@cwrealty.net](mailto:cw@cwrealty.net)>; [daryl@fuoco.com](mailto:daryl@fuoco.com) <[daryl@fuoco.com](mailto:daryl@fuoco.com)>; Ari Moskowitz <[ari@mlwitz.com](mailto:ari@mlwitz.com)>  
**Subject:** [EXTERNAL]RE: 960 Franklin Terms



This message was sent from outside the company. Please do not click links, open attachments, or send sensitive information until you verify the authenticity of this email (by calling the sender directly) or you know that the content is safe.

All – I have just been advised that this is not closing today. I don't have a further update at this time.

Jennifer and David – I don't believe that the wires actually made it to your accounts. However, to the extent that they did or do later on you are hereby directed to send it back to my client immediately.

**Eli Lefkowitz**

Partner



**Moskowitz & Lefkowitz LLP**

[1222 Avenue M, Suite 402, Brooklyn, NY 11230](#)

O: 718.301.7033 x102 • M: 917.683.6160

E-Mail: [eli@mlwitz.com](mailto:eli@mlwitz.com) • [www.MLwitz.com](http://www.MLwitz.com)

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## **EXHIBIT C**



**Brooklyn**  
1 MetroTech Center, Suite 1701  
Brooklyn, NY 11201  
718.215.5300 | P  
info@abramslaw.com | E

Long Island · Brooklyn · White Plains · Rochester · Albany · Manhattan

November 2, 2022

**VIA FEDERAL EXPRESS**

David J. Feit, Esq.  
Law Offices of David J. Feit, Esq., PLLC  
22 Cortlandt Street, Suite 803  
New York, New York 10007

**Re:** 960 Franklin LLC from HPG Associates, Inc.  
Premises: 960 Franklin Avenue, Brooklyn, NY and  
960 Franklin LLC from Brooklyn 122A Montgomery LLC  
Premises: 122A Montgomery Street, Brooklyn, NY

Dear David:


As you know, today is a TIME OF THE ESSENCE closing date. The wire for the Ten Million Dollar (\$10,000,000.00) additional deposit has never been received, and the balance of the purchase price has never been received.

As a result of these defaults, and pursuant to paragraph 3(B) of the agreement of sale of membership interests, the revisionary right by Assignor has been deemed exercised, Assignee has no further right in the Membership Interests, the prior assignments of the membership interests are null and void and Assignor is permitted to close with the underlying Sellers.

In addition, we hereby demand the second assignment, general release and FIRPTA sent to you in escrow yesterday, be immediately returned to my office. You are not authorized to release copies of those documents to your client or any other party.

This letter is without prejudice to, and my clients reserves all rights and remedies.

Very truly yours,



Anthony J. Carone

## **EXHIBIT D**

United States Bankruptcy Court  
Eastern District of New York

## Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 11/02/2022 at 4:28 PM and filed on 11/02/2022.

**960 Franklin Owner LLC**  
320 Roebling St. Num. 302  
Brooklyn, NY 11211  
Tax ID / EIN: 92-0848570



The case was filed by the debtor's attorney:

**Mark A. Frankel**  
Backenroth Frankel & Krinsky LLP  
800 Third Avenue  
11th Floor  
New York, NY 10022  
(212) 593-1100

The case was assigned case number 1-22-42760.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <https://ecf.nyeb.uscourts.gov/> or at the Clerk's Office, 271-C Cadman Plaza East, Suite 1595, Brooklyn, NY 11201-1800.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Robert A. Gavin, Jr.**  
**Clerk, U.S. Bankruptcy**  
**Court**

---

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
11/02/2022 16:30:27			
<b>PACER Login:</b>	mfrankel	<b>Client Code:</b>	
<b>Description:</b>	Notice of Filing	<b>Search Criteria:</b>	1-22-42760
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.10